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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Mitchell A. Avery  
Appl. No.: 09/981,312  
Filed: October 15, 2001  
Confirmation No.: 4970  
Docket No.: 1786  
Title: **SYNTHESIS OF EPOTHILONES AND RELATED ANALOGS**  
Art Unit: 1614  
Examiner: Fiona Powers

Action: **PETITION UNDER 37 C.F.R. § 1.313(c)**

Date: September 1, 2005

See  
copy

To: United States Patent and Trademark Office  
Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This Petition is being filed pursuant to 37 C.F.R. § 1.313(c) to withdraw from issue the above-identified patent application. Petitioner paid the issue fee and publication fee on May 11, 2005 and, at the present time, the Patent Office has not yet scheduled a projected issue date. As suggested in Section 1308(I)(B) of the MPEP, the undersigned representative for Petitioner contacted the Office of Petitions, who suggested that Petitioner send the present Petition by overnight courier.

Pursuant to 37 C.F.R. 1.313(c)(2), an application can be withdrawn from issue, even after payment of the issue fee, for the purpose of considering a Request for Continued Examination in compliance with § 1.114. Such is the

Petition Under 37 C.F.R. § 1.313  
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case here. The European Patent Office issued its European Search Report in the corresponding European patent application, which identified seven (7) references that were not made of record in the corresponding US case. Accordingly, Petitioner respectfully requests that the Patent Office grant the present petition to withdraw this application from issue so that the accompanying RCE can be filed and the RCE submission in the form of an Information Disclosure Statement considered by the Examiner.

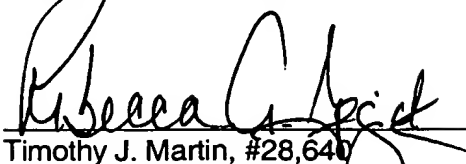
The RCE submitted herewith is in compliance with § 1.114 and is accompanied by Check No. 5228 in the amount of \$395.00. The required RCE submission is in the form of an Information Disclosure Statement and includes copies of the seven (7) references identified in the European Search Report.

No additional fees are believed to be payable at this time, however, the Commissioner is hereby authorized to charge any deficiency in the required fees, or to credit any overpayment, to deposit account number 13-1940.

Based on the foregoing circumstances, Petitioner requests the United States Patent Office withdraw the present application from issue and permit the accompanying Supplemental Information Disclosure Statement and references to be considered by the Examiner. If any issues remain to be resolved prior to accepting this Petition, the Commissioner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

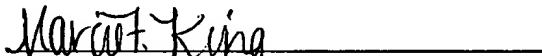
**TIMOTHY J. MARTIN, P.C.**



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**CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8**

I hereby certify that the foregoing **PETITION UNDER 37 C.F.R. § 1.313(c) (3 pages); Form PTO/SB/30 REQUEST FOR CONTINUED EXAMINATION (1 page), including, CHECK NO. 5228 IN THE AMOUNT OF \$395.00; RCE SUBMISSION IN THE FORM OF AN INFORMATION DISCLOSURE STATEMENT (2 pages), FORMS PTO/SB/08A AND PTO/SB/08B (2 pages) and REFERENCES** are being deposited for overnight delivery with Federal Express Label No. 8528 1030 5160 addressed to United States Patent and Trademark Office, Customer Service Window, Mail Stop Petitions, Randolph Building, 401 Dulany Street, Alexandria, VA 22314, on this 1 day of September, 2005.

  
Marcie F. King